

## **MERC CORNER**

### ***MERC Solicits Applications for its Panels of Neutrals***

***By Ruthanne Okun, Bureau Director***

The Michigan Employment Relations Commission is seeking applications from persons interested in and qualified for membership on one or more of its panels of neutral decision makers. MERC maintains three separate panels of neutrals, whose members hear and decide labor relations issues arising out of collective bargaining relationships.

First, MERC maintains a panel under Act 312 of 1969 – a law providing for compulsory arbitration of unresolved contract disputes in municipal police and fire departments. Employees covered under Act 312 include municipal police officers and firefighters, as well as emergency medical personnel and emergency telephone operators employed by municipal police or fire departments. In Act 312 cases, each party strikes one name from the list of three names provided to them by MERC; then, the individual remaining on the list is appointed to act as the panel chairperson. Each party also selects one delegate to serve alongside the chairperson on the arbitration panel. After a hearing, the chairperson of the three-member arbitration panel issues an award based on defined statutory criteria. The award establishes the terms of the parties' collective bargaining agreement.

MERC also maintains a panel of neutral fact finders. In fact finding cases, the fact finder, following MERC's procedures, conducts an open and informal hearing on the facts and, subsequently, issues a non-binding recommendation for settlement of the contract dispute. While the fact finder's report is not binding, the parties may return to negotiations or to mediation after fact finding and are frequently able to resolve their differences based on the fact finder's recommendations.

Finally, pursuant to its authority to aid parties in resolving labor disputes, MERC maintains a list of skilled arbitrators to hear and decide grievance disputes concerning the interpretation and application of labor agreements. MERC's involvement in the grievance/arbitration procedure is limited to the appointment of an arbitrator from our panel. The appointment is made without cost to the parties and is based upon the selection procedure and other terms set forth in the parties' own collective bargaining agreement.

MERC's neutral decision makers in Act 312 and fact finding cases are considered independent contractors of the State and receive a per diem rate of \$650 based on a 6.5-hour day. Expenses are reimbursed according to MERC's billing policy. Costs associated with an Act 312 proceeding, including the fee paid to the chairperson, are borne equally by the parties to the dispute and the State. All costs associated with fact finding are paid by the State. The per diem rate for grievance arbitration services is set by the arbitrator, as are any expenses associated with the arbitration process. Charges

are billed to and paid by the parties to the dispute in accordance with the terms of their labor agreement.

While MERC's neutral decision makers often gain experience by first serving on our grievance/arbitration panel before being assigned to an Act 312 or a fact finding case, we welcome applications from qualified persons to any of our panels. The fact that an individual currently represents or has previously represented labor or management should not dissuade qualified individuals from applying. MERC Rules specifically contemplate that an "advocate" may be a member of our panels. An "advocate" is defined in the Rules as "an individual who has represented management or a union in the past 5 years prior to his or her appointment to the arbitration panel" or "an attorney who is associated with a firm that has represented management or a union in the past 5 years prior to his or her appointment to the arbitration panel." If an individual who is an advocate is included on a Commission-provided list of names, either party has the automatic right to object to that individual, and a replacement name will be provided. Many of your colleagues who are labor relations attorneys or who have otherwise advocated for labor or management have had successful careers (or side careers) as MERC panel members.

If you are interested in becoming a member of one or more of our panels, you are encouraged to obtain an application from our office and submit it prior to September 15. We anticipate that the Commission will review applications at its meeting later that month. Persons added to the Act 312 and/or Fact Finding lists will be expected to attend a training session for new and current panel members, which will occur on November 3, 2006, at MSU College of Law.

We welcome any questions you might have concerning MERC's application process and/or service on MERC's panels of neutrals; please direct them to Bureau Director, Ruthanne Okun, at (313) 456-3519 or [rokun@michigan.gov](mailto:rokun@michigan.gov). All of us at MERC look forward to hearing from you and responding to your inquiries.